

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MYRIAM ZAYAS,

Plaintiff,

v.

DEPARTMENT OF CHILDREN YOUTH
AND FAMILIES,

Defendant.

CASE NO. 2:22-cv-01085-TL

ORDER TO SHOW CAUSE

This matter is before the Court on its own motion. Plaintiff Myriam Zayas initiated this civil rights action against Defendant Department of Children Youth and Families in July 2022. The Court previously dismissed Plaintiff's 42 U.S.C. § 1983 claims but not her challenge to an allegedly unconstitutional state statute. Dkt. No. 6. The Court directed the Clerk to issue summons so Plaintiff could serve process as required by the Federal Rules of Civil Procedure. *Id.* The Clerk did so on August 9, 2022. Dkt. No. 7. Plaintiff then had 90 days, or until November 7, 2022, to file proof of service to proceed with her remaining claim. Fed. R. Civ. P. 4(m). Instead, Plaintiff filed a notice of appeal (Dkt. No. 8), but her appeal was dismissed on September 22 by

1 the Ninth Circuit for lack of jurisdiction because “the record demonstrates that . . . the order
2 challenged in the appeal is not final or appealable.” Dkt. No. 10.

3 Even accounting for the time that Plaintiff’s appeal was pending, Plaintiff has had more
4 than 90 days to serve process. “If a defendant is not served within 90 days . . . the court . . . must
5 dismiss the action without prejudice against that defendant or order that service be made within a
6 specified time.” Fed. R. Civ. P. 4(m). Therefore, the Court ORDERS Plaintiff to either show cause
7 why this case should not be dismissed for failure to serve process or file sufficient proof of
8 service or waiver pursuant to the Federal Rules of Civil Procedure **by no later than January 20,**
9 **2023.** If Plaintiff fails to respond to this order, the Court will order this case dismissed, and the
10 case will be closed.

11 Dated this 19th day of December 2022.

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14 Tana Lin
15 United States District Judge
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